REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 7, 2003 ("Office Action"). At the time of the Office Action, Claims 1-55 were pending in the application. In the Office Action, the Examiner rejects Claims 1-55. Applicants have amended Claims 1, 12, 20, 30, and 48 to advance prosecution in this case. No new matter has been introduced by these amendments. Applicants do not admit that these amendments were necessary as a result of any cited art.

Consideration of Information Disclosure Statements

Applicants mailed an Information Disclosure Statement on January 16, 2003 that the Examiner has failed to consider entirely. The Examiner has failed to initial any of the references on the PTO-1449 form. Applicants respectfully request the Examiner to consider all of the art cited in the IDS dated January 16, 2003, and in the event a patent issues on this Application, that this art be printed on the face of the issued patent. Furthermore, Applicants respectfully request a copy of the PTO Form-1449 for the IDS indicating the Examiner's consideration of the references.

Summary of Telephonic Interview

Applicants' attorneys, Mr. Samir A. Bhavsar and Mr. Chad D. Terrell, conducted a telephonic interview with Examiner Nguyen on July 11, 2003. Pursuant to M.P.E.P. § 713.04, Applicants submit this summary of the telephonic interview to record Applicants' understanding of the substance of the interview. If Applicants' understanding is inaccurate, notice of such is appreciated.

Attorneys for Applicants thank the Examiner for the courtesy of his telephonic interview. During the telephonic interview, Applicants traversed the Examiner's objections under 35 U.S.C. § 112, second paragraph. As outlined below, the Examiner agreed to remove these objections. Applicants also traversed the Examiner's rejections under 35 U.S.C. § 103(a). With respect to independent Claim 1, Applicants discussed the *Johnson* and *Spiegel* references. Applicants discussed the reasons why the proposed *Johnson-Spiegel* combination does not teach, suggest, or disclose several limitations in Applicants' claims.

Although no agreement was reached, the Examiner agreed to consider Applicants' arguments, articulated in this Response, with respect to the rejections.

Obviousness-Type Double Patenting Rejections

The Examiner provisionally rejects Claims 1-55 under 35 U.S.C. § 101 as claiming the same invention as that of Claims 1-46 of co-pending Application No. 09/488,394. Although Applicants do not necessarily agree that the Examiner's rejection is appropriate, Applicant's respectfully file herewith a terminal disclaimer to overcome these obviousness-type double patenting rejections. Applicants therefore respectfully request reconsideration and allowance of Claims 1-55.

Section 112 Rejections

The Examiner rejects Claims 1-19, and 30-55 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner objects to certain terms in Claims 1-19 and 30-55 as lacking antecedent basis. Applicants address each of the Examiner's objections separately.

I. The Examiner objects that there is no antecedent basis for "the subscriber" in Claims 1, 12, 30, and 48. Although Applicants cannot find "the subscriber" in these Claims, the phrase "the subscribers" is included. Applicants believe that "a plurality of subscribers" provides sufficient antecedent basis for "the subscribers," however, to further clarify, Applicants have amended Claims 1, 12, 30, and 48 to recite "the plurality of subscribers." During the telephonic interview, the Examiner agreed to withdraw this objection to Claims 1, 12, 30, and 48 if this amendment is made.

II. The Examiner objects that there is no antecedent basis for "the particular virtual circuit" in Claims 1, 3, 5, 8, 12-14, 16, 30-32, 34, 38, 40, 43, 45, 48-50, and 52. Applicants respectfully disagree. With respect to Claim 1, for example, the phrase "a particular one of a plurality of virtual circuits" provides sufficient antecedent

basis for "the particular virtual circuit." Sufficient antecedent basis for the phrase "the particular virtual circuit" exists in Claims 3, 5, 8, 12-14, 16, 30-32, 34, 38, 40, 43, 45, 48-50, and 52 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular virtual circuit" exists in Claims 3, 5, 8, 12-14, 16, 30-32, 34, 38, 40, 43, 45, 48-50, and 52, and to withdraw this objection to Claims 3, 5, 8, 12-14, 16, 30-32, 34, 38, 40, 43, 45, 48-50, and 52.

III. The Examiner objects that there is no antecedent basis for "the particular subscriber" in Claims 12-19, 30-37, 43-45, and 48-55. Applicants respectfully disagree. With respect to Claim 12, for example, the phrase "a particular one of a plurality of subscribers" provides sufficient antecedent basis for "the particular subscriber." Sufficient antecedent basis for the phrase "the particular subscriber" exists in Claims 13-19, 30-37, 43-45, and 48-55 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular subscriber" exists in Claims 12-19, 30-37, 43-45, and 48-55, and to withdraw this objection to Claims 12-19, 30-37, 43-45, and 48-55.

IV. The Examiner objects that there is no antecedent basis for "the particular access server" in Claims 13-14, 31, and 49-50. Applicants respectfully disagree. With respect to Claim 13, for example, the phrase "a particular one of a plurality of access servers" provides sufficient antecedent basis for the phrase " the particular access server." Sufficient antecedent basis for the phrase "the particular access server" exists in Claims 14, 31, 49, and 50 for similar reasons. During the telephonic interview, the Examiner agreed that sufficient antecedent basis for "the particular access server" exists in Claims 13-14, 31, and 49-50, and to withdraw this objection to Claims 13-14, 31, and 49-50.

Applicants respectfully submit that Claims 1-19 and 30-55 fully comply with 35 U.S.C. § 112, paragraph 2, and respectfully request withdrawal of this rejection of Claims 1-19 and 30-55.

Section 103 Rejections

The Examiner rejects Claims 1-5, 10, 12-15, 18, 20-23, 28, 30-33, 36, 38-40, 43-45, 48-51, and 54 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,115,427 issued to Johnson, Jr. et al. (*"Johnson"*) in view of U.S. Patent No. 5,649,108 to Spiegel, et al. (*"Spiegel"*). Applicants respectfully traverse this rejection.

Nowhere does the proposed *Johnson-Spiegel* combination teach, suggest, or disclose at least the following limitations recited in amended Claim 1:

- a memory coupled to the access server and operable to store *subscriber information* for the plurality of subscribers and further operable to store *path information that identifies a virtual circuit assigned to each of the plurality of subscribers,* wherein *subscriber information for the particular subscriber is indexed by path information for the particular subscriber*; and

- a processor coupled to the memory and operable to:

     compare the path information and the particular virtual circuit used to receive the communication from the particular subscriber; and

     determine subscriber information for communication to the particular subscriber *based on the comparison.*

Instead, *Johnson* is merely directed to arrangements for switching multiple packet types combined in a single packet stream such as a switching arrangement which can receive a B-ISDN information stream and selectively connect the incoming packetized information to the appropriate broadband and narrowband customers in an efficient and cost effective manner. (*See* Column 2, Lines 18-22). This switching arrangement is insufficient to teach, suggest, or disclose Applicants' invention.

The Proposed Combination Does Not Teach, Suggest, Or Disclose "Subscriber Information"

For example, *Johnson* fails to teach, suggest, or disclose "subscriber information for the plurality of subscribers" as recited in Claim 1. The Examiner relies upon a translation table disclosed in *Johnson* to teach this element. However, the translation table of *Johnson*

appears to be merely a routing table, which cares nothing about particular subscribers, much less "subscriber information." The translation table of *Johnson* "stores the physical routing header and the new VCI for each packet received on its connected communication path." (Column 6, Lines 49-52). "For VCIs which identify communication among customers, the new VCI and physical routing header stored in translation table 63 are computed by control unit 6017 and transmitted to table 63 when a connection is set up." (Column 6, Lines 52-56). "Other VCIs on the communication paths, e.g. 6115, are permanently assigned to a switching function and the new VCI and physical routing headers associated therewith are stored in the translation table 63 when the system is initialized." (Column 6, Lines 56-61). As can be seen in FIGURES 6-8 of *Johnson*, translation tables 63 for each communication path circuit merely store VCI INs, physical routing headers, and VCI OUTs (to replace the VCI IN). Thus, translation tables 63 are merely pass-through tables – the broadband packet switch gets something in one port and sends it out another port as identified in the translation table 63. This in no way teaches, suggests, or discloses storing "subscriber information for the plurality of subscribers" as recited in Applicants' Claim 1. *Spiegel* fails to account for this deficiency of *Johnson*.

The Proposed Combination Does Not Teach, Suggest, Or Disclose "Path Information"

As another example, the Examiner acknowledges that *Johnson* fails to teach, suggest, or disclose "wherein the subscriber information is indexed by path information that identifies a virtual circuit assigned to the particular subscriber." (Office Action, Page 5). For clarification, amended Claim 1 actually recites a memory "further operable to store path information that identifies *a virtual circuit assigned to each of the plurality of subscribers*, wherein subscriber information for the particular subscriber is indexed by path information for the particular subscriber." *Spiegel* fails to make up for the acknowledged deficiencies of *Johnson*. The cited portions of *Spiegel* are limited to storing the VCIs of received packets. Nowhere does *Spiegel* say anything about storing "path information that identifies a virtual circuit *assigned to* each of the plurality of subscribers," much less "wherein subscriber information for the particular subscriber is *indexed by path information* for the particular subscriber" as recited in Claim 1, as amended.

One cited portion of *Spiegel* recites, "Exit then is to step 48 where the switch controller 12 at source node reads the connection request and *stores the input VCI of the request* and *determines an output port ID and an ongoing VCI* to be used for the next hop in a well known manner and *sets them into one entry of the forwarding table 20* of the incoming line interface 10." (Column 7, Lines 13-17). The other cited portion of *Spiegel* recites, "If the decision at step 63 or 67 is affirmative, control exits to step 68 to *set the forwarding table* of the incoming node interface 10 by *storing the VCI contained in the received packet* into the *incoming VCI field* of an entry of the forwarding table, and *storing an output port* determined from the source route field of the packet into and *a selected outgoing VCI* into the forwarding table entry." (Column 8, Lines 43-49). The cited portions of *Spiegel* are clearly limited to storing VCIs of received packets, and at best, determining and storing an outgoing VCI. The forwarding table of *Spiegel* is actually very similar to the translation table of *Johnson* in that both tables merely store forwarding information for packets received on certain VCIs. There simply is no assignment of a virtual circuit and there is no indexing. Thus, the proposed *Johnson-Spiegel* combination fails to disclose, teach, or suggest storing "path information that identifies a particular virtual circuit assigned to each of the plurality of subscribers, wherein the subscriber information for the particular subscriber is indexed by path information for the particular subscriber" as recited in Claim 1 as amended.

The Proposed Combination Does Not Teach, Suggest, or Disclose a Processor Operable to "Compare the Path Information and the Particular Virtual Circuit Used to Receive the Communication from the Particular Subscriber"

Neither *Johnson* nor *Spiegel* discloses a comparison, let alone a processor operable to "compare the path information [that identifies a virtual circuit assigned to the particular subscriber] and the particular virtual circuit used to receive the communication from the particular subscriber" as recited in Claim 1, as amended. The cited portion of *Johnson* merely recites, "A broadband packet switch responds to a broadband service request packet identifying first and second broadband customer lines by connecting the service request packet to a control unit via the narrowband switch and the control unit responds to the service request packet by controlling connection of packets between the first and second customer lines." (Column 2, Lines 31-38). The Examiner also cites Column 7, Lines 4-47, which

discuss the translation tables as illustrated in FIGURES 6, 7, and 8 of *Johnson*. (Office Action, Page 5).

As discussed above, the translation tables of *Johnson* appear to merely be routing tables, which cares nothing about particular subscribers, much less subscriber information. As can be seen in FIGURES 6-8 of *Johnson*, translation tables 63 for each communication path circuit merely store VCI INs, physical routing headers, and VCI OUTs (to replace the VCI IN). Translation tables 63 are merely pass-through tables – the broadband packet switch gets something in one port and sends it out another port as identified in the translation table 63. *Johnson* does not disclose any sort of comparison, much less a processor operable to "compare the path information [that identifies a virtual circuit assigned to the particular subscriber] and the particular virtual circuit used to receive the communication from the particular subscriber" as recited in Claim 1, as amended. *Spiegel* fails to account for these deficiencies of *Johnson*.

All of Applicants' arguments and amendments are without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicants do not acquiesce in the Examiner's additional statements. The distinctions discussed by Applicants is sufficient to overcome the obviousness rejection.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 1, together with all claims that depend from Claim 1. For at least the reasons stated with regard to Claim 1, Applicants respectfully request reconsideration and allowance of independent Claims 12, 20, 30, 38, 43, and 48, together with all claims that depend from Claims 12, 20, 30, 38, 43, and 48.

Claims 2-5 and 10 (which depend from Claim 1), Claims 13-15 and 18 (which depend from Claim 12), Claims 21-23 and 28 (which depend from Claim 20), Claims 31-33 and 36 (which depend from Claim 30), Claims 39-40 (which depend from Claim 38), Claims 44-45 (which depend from Claim 43), and Claims 49-51 and 54 (which depend from Claim 48 depend from allowable independent claims and are allowable for at least this reason. In

addition, Claims 2-5, 10, 13-15, 18, 21-23, 28, 31-33, 36, 39-40, 44-45, 49-51, and 54 recite further patentable distinctions over the prior art of record. To avoid burdening the record and in view of the allowability of Claims 1, 12, 20, 30, 38, 43, and 48, as described above, Applicants do not specifically discuss in this Response the patentable distinctions of Claims 2-5, 10, 13-15, 18, 21-23, 28, 31-33, 36, 39-40, 44-45, 49-51, and 54. However, Applicants reserve the right to discuss these distinctions in a future Response. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-5, 10, 13-15, 18, 21-23, 28, 31-33, 36, 39-40, 44-45, 49-51, and 54.

The Examiner rejects Claims 6-7, 11, 19, 24-25, 29, 37, 41-42, 46-47, and 55 under 35 U.S.C. § 103(a) as being unpatentable over *Johnson* in view of *Spiegel*, and further in view of U.S. Patent 6,084,892 issued to Benash, et al. ("*Benash*"). The Examiner rejects Claims 8-9, 16-17, 26-27, 34-35, and 52-53 under 35 U.S.C. § 103(a) as being unpatentable over *Johnson* in view of *Spiegel*, and further in view of U.S. Patent 5,239,537 issued to Sakauchi ("*Sakauchi*").

Claims 6-9 and 11 (which depend from Claim 1), Claims 16-17 and 19 (which depend from Claim 12), Claims 24-27 and 29 (which depend from Claim 20), Claims 34-35 and 37 (which depend from Claim 30), Claims 41-42 (which depend from Claim 38), Claims 46-47 (which depend from Claim 43), and Claims 52-53 and 55 (which depend from Claim 48) depend from allowable independent claims and are allowable for at least this reason. In addition, Claims 6-9, 11, 16-17, 19, 24-27, 29, 34-35, 37, 41-42, 46-47, 52-53, and 55 recite further patentable distinctions over the prior art of record. To avoid burdening the record and in view of the allowability of Claims 1, 12, 20, 30, 38, 43, and 48, as described above, Applicants do not specifically discuss in this Response the patentable distinctions of Claims 6-9, 11, 16-17, 19, 24-27, 29, 34-35, 37, 41-42, 46-47, 52-53, and 55. However, Applicants reserve the right to discuss these distinctions in a future Response. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 6-9, 11, 16-17, 19, 24-27, 29, 34-35, 37, 41-42, 46-47, 52-53, and 55.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Samir A. Bhavsar, Attorney for Applicants, at the Examiner's convenience at (214) 953-6581.

A check in the amount of $110.00 is enclosed for a one-month extension of time. Although Applicants believe no other fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: August 7, 2003

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Enclosures:
Terminal disclaimer
$110.00 check for terminal disclaimer
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